

Atty. Dkt. No. 200312941-1

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REMARKS

This Reply is in response to the Office Action mailed on May 3, 2006.

I. Rejection of claims under 35 USC § 112, second paragraph

Claims 1-36 stand rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants traverse.

Claim 1 recites "wherein the flag is configured to remain substantially in one angular position for a portion of time while the medium is moving and in contact with the flag." The Office Action alleges that this "feature is unclear." Applicants note that the Office Action does not identify any indefiniteness with this claim language but rather states that this "feature is unclear to the examiner as the figures that show the travel path of the sheet beneath the sensor clearly show that the flag rotates to different angular positions." (Office Action page 2).

An example embodiment of this feature is illustrated in FIG. 6 of the patent application and is described at least at paragraphs 38-41 of the application as filed. In particular, paragraph 38 of the application as filed states "FIGURE 6 illustrates flag 90 pivoted to a fourth position by movement of medium 112 along media path 58. In the fourth position, portion 94 of flag 90 has been rotated about axis 98 to a sufficient extent such that medium 112 passes below portion 94. As a result, continued movement of medium 112 relative to portion 94 of flag 90 does not result in further pivoting of flag 90 about axis 98." As such, in the fourth position, "continued movement of medium 112 relative to portion 94 of flag 90 does not result in further pivoting of flag 90." Applicants submit that the language of claim is clear and is well-supported in the application as filed. Withdrawal of this rejection is requested.

The Office Action also states that "the examiner is unclear as to how the function of the flag is performed." Applicants submit that the function of the flag is illustrated in at least FIGS. 3-8 of the application filed and described in at least paragraphs 31-42 of the application as filed.

Atty. Dkt. No. 200312941-1

Consequently, Applicants submit that the meaning of the claim terms is apparent and that the figures and detailed description portions of the patent application describe details of embodiments of the functions and of the flag. Applicants note that "Breadth of a claim is not to be equated with indefiniteness." (MPEP 2173.04) and submit that the present claims are definite and comply with 35 USC § 112, second paragraph. Withdrawal of the rejections under 35 USC § 112, second paragraph are requested.

II. Rejections based in whole or in part on U.S. Patent No. 6,926,272

Claims 1-18 and 21-36 stand rejected under 35 USC 102(e) as anticipated by U.S. Patent No. 6,926,272. Further, claims 19 and 20 stand rejected under 35 USC § 103(a) as being unpatentable over Choho et al. in view of U.S. Patent No. 6,926,272.

Applicants are filing herewith a declaration under 37 CFR 1.131 that establishes conception of the invention of claims 1-36 prior to the filing date of U.S. Patent No. 6,926,272. Consequently, Applicants submit that U.S. Patent No. 6,926,272 is disqualified as a reference and request withdrawal of the rejections based in whole or in part on U.S. Patent No. 6,926,272.

Allowance of all pending claims is requested.

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III. Conclusion.

Applicants believe that the present application is in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 08-2025. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 08-2025. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 08-2025.

Respectfully submitted,

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